

No. SE/PWD/B & R/Ambala/1012.—Whereas it appears to the Governor of Haryana that land is likely to be needed by the Government, at public expense, for a public purpose, namely, constructing a link road from S.B.K. road to village Haveli in Ambala District, it is hereby notified that the land described in the specification below is required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana is pleased to authorise the officers, for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested in the above land, who has any objection to the acquisition thereof, may within thirty days after the date on which public notice of the substance of this notification is given in the locality, file an objection in writing before the Land Acquisition Collector, Public Works Department, Buildings and Roads Branch, Ambala Cantt.

#### SPECIFICATION

District	Tehsil	Locality/ Village	Habdast No.	Area in acres	Khasra No.	Remarks
1	2	3	4	5	6	7
Ambala	Naraingarh	Haveli		0.45	32, 18-17	
					58, 63, 64, 72	

The 8th March, 1977.

No. SE/PWD/B.&R./Ambala/529.—Whereas it appears to the Governor of Haryana that land is likely to be needed by the Government, at public expense, for a public purpose, namely, constructing a link road from Charniabar Godam road to village Banoi Khudabax, tehsil Kalka, district Ambala, it is hereby notified that the land described in the specification below is required for the above purpose.

This notification is made under the provisions of section VI of the Land Acquisition Act, 1884, to all whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana, is pleased to authorise the Officers, for the time being engaged in the undertaking with their servants and workmen to enter upon and survey any land in the locality and do all other acts required or permitted by that section.

Any person interested in the above land, who has any objection to the acquisition thereof, may within thirty days after the date on which public notice of the substance of this notification is given in the locality, file an objection in writing before the Land Acquisition Collector, Public Works Department, Buildings and Roads Branch, Ambala Cantt.

#### SPECIFICATION

District	Tehsil	Locality/ Village	Habdast No.	Area in acres	Khasra No.	Remarks
1	2	3	4	5	6	7
Ambala	Kalka	Bar	H. No. 135	0.75	104, 105, 109 to 117	
Do	Do	Kharanwali	H. No. 130	6.02	12 to 24, 40, 54 to 61, 115, 126 to 133, 147 to 150, 163, 165 to 171, 180, 216, 230 to 235, 270 to 275, 279, 389, 390 to 396, 400, 401, 402, 403, 408, 427 to 430	

District	Tehsil	Locality/ Village	Habbast No.	Area in acres	Khasra Nos.	Remarks
1	2	3	4	5	6	7
Ambala	Kalka	Nagal Ruttal	H. No. 133	0.35	1, 2, 3, 4, 5, 278	
Do	Do	Banoi Khudabax	H. No. 131	1.60	92 to 97, 124 to 144, 171 to 180	
			Total	8.72		

(Sd.) . . .

Superintending Engineer,  
Ambala Circle, P.W.D., B. and R. Branch,  
Ambala Cantt.

#### CORRIGENDUM

In the Extract from *Haryana Government Gazette*, dated the 18th January, 1977, in Public Works Department, Buildings and Roads Branch, Jind Circle, notification No. 64, dated the 24th December, 1976, in col. "Name of Village" of the Specification, read "Sindhvikhera" for "Sinvikhera".

#### LABOUR DEPARTMENT

The 23rd February, 1977

**No. 1416-4Lab-77/4794.**—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workmen and the management of M/s. Diamond Steel Works, Bahadurgarh:—

**BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA,  
ROHTAK**

**Reference No. 1 of 1976**

*between*

**SHRI MOHINDER DUTT, WORKMAN AND THE MANAGEMENT OF M/S. DIAMOND  
STEEL WORKS, BAHADURGARH**

#### AWARD

By order No. ID/RTK/91-A-75/1778, dated 14th January, 1976 of the Governor of Haryana, the following dispute between the management of M/s. Diamond Steel Works, Bahadurgarh and its workman Shri Mohinder Dutt, was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Mohinder Dutt was justified and in order? If not, to what relief is he entitled?

The parties put in their appearance in this Court, in response to the usual notices of reference sent to them.

The workman alleged,—*vide* notice of demand, dated 6th November, 1975, served by him on the management and treated as his claim statement, that his services had been terminated by the management illegally with effect from 30th October, 1975, by way of retrenchment without serving him any notice or payment to him of one month's wages and that employees junior to him had been retained in service.

The management pleaded,—*vide* written statement filed by them that the reference made to this Court was bad in law for want of service on them directly a notice of demand and their rejection thereof, before the matter was taken to the Conciliation Officer. On facts they stated that the workman being junior-most in the category

of helper had to be retrenched on account of shrinkage of work, as a measure of economy and that his period of service on the date of his retrenchment being less than 240 days, he was not entitled to any notice pay or one month's notice.

The following issues were thus framed on pleas of the parties,—*vide* my order, dated 7th April, 1976 :—

1. Whether the reference is bad in law for the reasons stated in the preliminary objections?
2. Whether the retrenchment of the workman was justified?
3. Whether the termination of services of Shri Mohinder Dutt was justified and in order? If not, to what relief is he entitled?

I have carefully read the written arguments, filed by the parties, and seen the records. I decide the issues as under:—

#### Issue No. 1

The management led no evidence in support of this issue even otherwise for the reasons stated by me in detail in my order, dated 10th October, 1975 made in reference entitled *Shri S.C. Sethi versus Kirloskar Oil Engines Faridabad*, I hold that it was no longer necessary for the workman to serve a notice of demand directly on the management and for the latter to reject it, before the matter was taken to the Conciliation Officer, for constituting an Industrial Dispute. I thus decide this issue against the management.

#### Issue No. 2

It stands conceded by the workman that he joined services of the management in February, 1975 and was retrenched with effect from 1st November, 1975. His period of service with the management was thus admittedly less than one year and none of the provisions of section 25 (F) of the I.D. Act, relating to the liability of the management to serve him one month's notice prior to his retrenchment or to pay him retrenchment compensation or notice pay, is applicable to the facts of this case.

The management examined Shri Sardar Lal, their Prop. as MW-1 and led no other evidence. Shri Sardar Lal deposed that the workman concerned was junior most helper on the date of his retrenchment and no person junior to him was retained in service on that date. He, however, admitted that no seniority list of the employees of the management had been prepared and that his statement that workman concerned was junior most was found corroborated from the register of attendance of the employees brought by him, wherein Shri Mohinder Dutt workman was entered as having been employed last of all the employees. He admitted that there was no column in the attendance register in respect of the date of appointment. Even though he stated that E.S.I. contribution was deducted from the wages of Shri Mohinder Dutt with effect from 1st April, 1975, yet he did not bring that register or the payment of wages register in Court. Neither the original order of retrenchment of Shri Mohinder Dutt, nor its copy, was brought on record by the management and Shri Sardar Lal explained that the original order had since been lost and misplaced. On giving full consideration to the facts of the case and the statement of Shri Sardar Lal, I do not feel inclined to believe the bare oral testimony of the latter, that Shri Mohinder Dutt was the junior most in the category of helpers on the date of his retrenchment, particularly when no seniority list was admittedly prepared by the management and there was undisputedly no column in the register of attendance brought by him in Court relating to the date of appointment of each workman.

Shri Sardar Lal admitted that one Shri Chander Mohan employed as a learner, admittedly junior to Shri Mohinder Dutt was retained in service in preference to the latter, on the date of his (Mohinder Dutt) retrenchment. The management never set up a case that Shri Chander Mohan was not their regular employee or that he did not receive wages as a learner. There was, therefore, no justification to retrench the services of Shri Mohinder Dutt in preference to Shri Chander Mohan admittedly junior to him, even if the latter was employed as a learner. Above all, there is no cogent and reliable evidence on record establishing the justification of the retrenchment of the services of Shri Mohinder Dutt for reasons of shrinkage of work and the oral statement of Shri Sardar Lal made in this connection in absence of any other evidence, documentary and oral, does not inspire confidence. There is on the other hand documentary evidence on record for the workman, rebutting the statement of Shri Sardar Lal that the services of Shri Mohinder Dutt had to be retrenched on account of shrinkage of work. For instance, a copy of the report of the Conciliation Officer Ex. W-2, dated 27th November, 1975 received by the workman under his (Conciliation Officer) signatures, established that the management agreed to take the workman on duty without payment to him his back wages, if he desired to serve them. In view of this admission of the management found incorporated in report Ex. W-2, dated 27th November, 1975 it can hardly be said that there was shrinkage of work on 1st November, 1975, only 26 days before the admission was made by the management that they were prepared to take the workman on duty. Shri Sardar Lal admitted that he appeared before the Conciliation Officer with Shri Kanwal Singh their authorised representative and there can thus be no doubt of the correctness of the report of the Conciliation Officer and the admissions of the management found incorporated therein.

Considered from any angle, the management have miserably failed to establish justification of the retrenchment of services of the workman concerned and the retrenchment of the latter is thus manifestly illegal to be set aside. I, therefore, decide this issue against the management.

### Issue No. 3

In view of my findings on issue No. 2 the termination of services of the workman is obviously unjustified and illegal and he is entitled to reinstatement with continuity of service and back wages. I decide this issue accordingly.

I, in consequence answer, the reference while returning the award in terms of any findings on issue No. 2 and 3.

MOHAN LAL JAIN,

Dated 10th February, 1977.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 269, dated 14th February, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Dated 10th February, 1977.

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 67-4Lab-77/4805.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workmen and the management of M/s Khadi Ashram, G. T. Road, Panipat:—

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 55 of 1971

*between*

THE WORKMEN AND THE MANAGEMENT OF M/S KHADI ASHRAM,  
G. T. ROAD, PANIPAT  
AWARD

By order No. ID/15913, dated 26th May, 1971 the Governor of Haryana, referred the following disputes between the management of M/s. Khadi Ashram, G. T. Road, Panipat and its workmen to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

1. Whether the action of the management in transferring Shri Om Parkash Verma from Panipat to Patiala was justified and in order ? If not, to what relief is he entitled ?
2. Whether the action of the management in withholding the annual increments of those workers which have been raised to Rs. 100 per month in accordance with settlement dated 24th February, 1970 was justified and in order ? If not, to what relief are they entitled ?

On receipt of the reference, notices were issued to the parties. The parties put in their pleadings. A following preliminary issue was framed on 2nd August, 1971:—

“Whether the appropriate Government to make the reference is the Central Government and not the State Government and whether this matter is barred by the principle of *res-judicata* by virtue of an earlier award dated 22nd January, 1968 in reference No. 83 of 1967 between the parties ?” (onus on management)

My learned predecessor had decided this issue against the workmen on 21st July, 1972, and thereafter the workmen went in Writ Petition in the Hon'ble High Court for Punjab and Haryana Chandigarh. The Writ Petition was allowed and the case was remanded to this Tribunal,—*vide* judgement, dated 13th August, 1973. Thereupon the management went in L.P.A. and the appeal also failed.

Again my learned predecessor framed another issue on 26th June, 1974 as follows:—

“Whether Khadi Ashram Panipat is an Industry within the meaning of Industrial Disputes Act, 1947 ? If not, with what effect ? (on workmen)

The parties led their evidence and addressed the arguments. My learned predecessor decided this issue against the management and in favour of the workmen and the case proceeded further, as it was held that Khadi Ashram is an industry. On 4th August, 1975 the three following issues were also framed:—

- (1) Whether the demand notice dated 23rd June, 1970 served on Khadi Ashram has been properly espoused by the workmen of Khadi Ashram Panipat ?
- (2) Whether the action of the management in transferring Shri Om Parkash Verma from Panipat to Palwal is justified or not ? If not, to what relief is he entitled ?
- (3) Whether the workmen are entitled to increment as claimed by them,—*vide* the statement of claim filed by Shri Om Parkash Verma as General Secretary on their behalf ?

On 15th September, 1975 the parties made statements. The representative of the workmen withdrew from demand No. 2 relating to increment covered under issue No. 3 and thereupon the representative of the management withdrew his preliminary objection raised in issue No. 1 relating to proper espousal by the workmen. Thereafter there remained issue No. 2 only, to be tried and decided. The parties led their evidence. The management examined Shri Hari Singh, Office Incharge, Head Office, Khadi Ashram Panipat as M.W.1. who stated that the workmen was appointed,—*vide* letter Ex. M-11, on his application Ex. M-9. He was sent to Garhshankar,—*vide* letter Ex. M-10. The workman sent a letter Ex. M-12 from Garhshankar and the management replied it,—*vide* Ex. M-13. He produced a statement Ex. M-14 showing duration of postings of the workmen at different stations during the course of his employment. He himself prepared that statement consulting the relevant records. He proved several letters of the workmen and replies sent by the management to the workmen. His evidence showed that the workman was being transferred to several places prior to the transfer under reference. He further stated that transfers are regular feature of the management and the management has branches at several places. The same witness was again examined and gave a supplementary statement.

The workman also examined himself as W. W. 1 who stated that he was appointed at Ambala in the year 1955. Although he stated that at the time the designation of Khadi Ashram was Central Relief Committee. He was not given any letter of appointment. He further stated that the management had been sending him on deputation for a period of 2/3 months to outside station from 1955 to 1970. He however could not tell the actual period of deputation. He stated that he has been office secretary of the union and also had been Joint Secretary and General Secretary of the union. He tendered in evidence the copies of letter Ex. W-1. He also tendered other documents also. He stated that he was again transferred to Karnal in 1971,—*vide* letter Ex. W-5. He objected,—*vide* copy of letter Ex. W-6. He sent another letter Ex. W-7 to the management. He stated that he had been going to the Gates of the premises of the management after his transfer in 1971. He also stated that Khadi Ashram was named in 1956. He further stated that the head office of Khadi Ashram was brought from Ambala to Panipat in 1960 approximately and at that time all employees were brought to Panipat. He remained on deputation to several outside stations between the year 1960 and 1962 also. He testified that by transfer he had been victimised for his trade union activities. In cross examination he neither affirmed nor denied the suggestion made in the statement Ex. M-14 showing the duration of his posting at several places. He admitted his signature on several documents and said that M-17, M-39, M-117 were in his handwriting and were correct. He further stated that the management transferred him to Karnal in 1969. He raised a dispute and the dispute was settled,—*vide* Ex. M-48. He also received a copy of the letter Ex. M-49. He denied his knowledge regarding the fact that the post of Khadi Ashram was transferable or not. He here did not categorically deny that the post of Khadi Ashram was not transferable. He also showed his ignorance of transfers of other employees of Khadi Ashram also. He stated that he never received any deputation allowance. He admitted that wherever he went out of Panipat, he received his journey fare, as well as journey fare of his family. He also received his house-rent at the place of his deputation.

The examination of the workman concerned as witness clearly shows that he had been transferred several times.

I have carefully considered the evidence of the parties viz the statement of their witnesses and the documents placed on the file.

The workman has placed on file the rules and regulations of the Khadi Ashram viz Exhibit W. W. 1 which is a printed document and authenticated one. Clause 7 on page 17 of Exhibit W. W. 1 relates to matters arising out of transfer which mean that the management had a right to transfer their employees. These documents also reveal that there are several branches of the management at several places. Exhibit M. I is also minutes of the joint discussion of the union and the management. On page 1 of these minutes, it is obvious from the last para No. 1 that the said workman was to go on transfer to the place he was transferred. These minutes are in the nature of settlement and agreement and it is obvious there from that the management had been exercising their right to transfer their employees and had been transferring their employees. The management has placed their several documents which are authenticated ones which are Exhibit M-7, M-8, Clause 4 on page 2 of Exhibit M-8 provides that during probation period as well as after appointment of an employee, the management shall have right to transfer the employees and the employees shall have to go to the place where they had been sent. Exhibit M-14 shows that he has been transferred to several places during the period from 1957 to 1971. in as much as there are about 10/11 transfers from 1957 to 1961. Exhibit M-23, M-33 also are orders of transfers of the workman concerned which relate to the year 1959 to 1960. In Exhibit M-37 the workman concerned himself has stated that once he was transferred from Chandigarh to Simla. There is overwhelming documentary evidence proving transfers of the workman concerned to different places Even the workman concerned has received journey fare on account of his transfer from Panipat to Chandigarh —*vide* Exhibit M-38. His bills for expenses on transport and conveyance on transfer is Exhibit M-39. Along with that he also filed the bus tickets.

*Vid.* Exhibit M-37 several persons were transferred to several places by the management in 1964 including the said workman. The documents proving transfer of the workman during his employment are voluminous and run in a number more than 100. It is unnecessary to describe all of them. A long practice of transferring the employees by the management has been established. From the above discussions, I have to conclude that the management has a right to transfer their employees. The management has a right to transfer even the workman concerned Shri Om Parkash Verma and the management has transferred this workman concerned in exercise of their right. The documents produced by the management, as well as by the workman concerned reveal that there was an agreement also that the management could transfer the workman concerned as well as their other employees. The agreement is expressed also as provided in the above referred documents. The agreement is implied also, as repealed by several instances. The representative of the management cited 1956-LLJ-I-page 591 and 1960-LLJ-Vol-II page-236.

I have gone through 1960-LLJ-Vol. I-page 266 wherein it has been held that a partnership firm was running a Sugar factory at a particular place and subsequently the same firm purchased another sugar factory situated at a different place and the service condition prevailing at both the factories were different. The partnership firm transferred their employees to the place where it subsequently purchased another Sugar factory. It was held in that case that the employees could not be transferred but this ruling is not applicable to the facts of the present case. The Khadi Ashram from the very inception had several branches and it has been transferring employees from one branch to the other and from head office to a branch and the employees have been carrying out all those transfers. Even the workmen concerned has been transferred several times and has gone on those transfers although he said that he went on deputation but the evidence proved that he went on transfer. As I have already held that the evidence has disclosed that there was even an express and implied agreement between the parties by which the Khadi Ashram could transfer its employees.

I have also considered 1960-LLJ-Vol-II page 125. In that case it has been held that if there is an express agreement in favour of the employee that he shall not be transferred, only then the employee cannot be transferred. There is no such agreement between the parties that the management shall not be able to transfer the employees, hence this ruling is also not of much assistance to the workman in the fact, of the present case rather it helps the employer to transfer his employee.

1956-J-LLJ-Vol:I-page 591 also held that unless there is an express conditions to the contrary in the contract of employment, an employee can be transferred from one place to another. I do not find any express condition to the contrary of the management's right to transfer his employee. Rather I find that the agreement express and implied also as discussed above, empowers the management to transfer the workman concerned. The representation of the workmen has cited S. C. LJ-1959-67 page 3837, which is the same ruling as reported in 1960 (I) LLJ-265.

I have already discussed this ruling. This ruling does not apply to the facts of this case. It has been proved in this case that the management had a right to transfer the employee concerned

and the management has been exercising, this right time and again I, therefore, give my award as follows:—

“ That the action of the management in transferring Shri Om Parkash Verma from Panipat to Palwal was justified and in order and Shri Om Parkash Verma is not entitled to any relief. No order as to costs.”

NATHU RAM SHARMA,

Dated 20th December, 1976.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 1414, dated 25th December, 1976

Forwarded (four copies) to the Secretary to Governments Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated 25th December, 1976

NATHU RAM SHARMA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

The 24th February, 1977

No. 857-4Lab-77/4942.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak, in respect of the dispute between the workman and the management of M/s. Haryana Roadways, Gurgaon.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 233 of 1972

*between*

SHRI SUNDER DASS, WORKMAN AND THE MANAGEMENT OF M/S. HARYANA  
ROADWAYS, GURGAON

AWARD

By order No. ID/GG/116-F-72/39478-82, dated 13th November, 1972 of the Governor of Haryana, the following dispute between the management of M/s. Haryana Roadways, Gurgaon and its workman Shri Sunder Dass, was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of Section 19 of the Industrial Disputes Act, 1947 :—

“Whether the termination of services of Shri Sunder Dass was justified and in order ? If not, to what relief is he entitled ?”

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that on being selected by the Haryana Subordinate Services Selection Board against a permanent post, he was employed by the management as a Conductor on 18th August, 1971 and that he continued to work as such till 8th January, 1972 when his services were terminated by the General Manager,—*vide* letter dated 29th December, 1971 without holding any enquiry or serving any charge sheet on him. He stated that his services were illegally terminated by the management on a false complaint made by Road Inspectors Sarvshri Raj Kumar and Lal Chand,—*vide* letter referred to above intimating him that his services were no longer required and that Conductors junior to him were retained in service.

The management while admitting the appointment of the workman as a Conductor on 18th August, 1971 on a purely temporary basis against the vacancy of a suspended Conductor Shri Om Parkash and the termination of his services with effect from 4th January, 1972,—*vide* letter dated 29th December, 1971 denied other allegations and pleaded that his services were terminated in accordance with the terms of his appointment order, dated 18th August, 1971 and the agreement arrived at between them and their workmen. They admitted that no enquiry was held against the workman and no charge sheet was served upon him before the termination of his services.

They further averred that no demand was raised on them by Shri Sunder Dass and that he was not a workman and was governed by the Punjab Civil Services Rules and as such the reference was bad in law.

The workman controverted the pleas of the management and reiterated the allegations made by him in the claim statement with the result that the following issues were framed on pleas of the parties,—*vide* order, dated 29th August, 1973 :—

1. Whether the present duties is not covered by the provisions of Industrial Disputes Act for the reasons given in the written statement ?
2. Whether the demand the subject matter of the present reference was first raised on the management and rejected by it ? If not, with what effect ?
3. Whether the termination of services of Shri Sunder Dass was justified and in order ? If not, to what relief is he entitled ?

I have heard learned authorised representatives for the parties with reference to the evidence led by them I decide the issues as under :—

#### Issue No. 1

This issue being not pressed by the management is decided against them.

#### Issue No. 2

The workman appearing as his own witness deposed that he served a notice of demand, dated 19th May, 1972 Exhibit WW-1/7 on the management and conciliation proceedings were taken up by the Conciliation Officer thereafter and these led to the reference. The management led no evidence in rebuttal of the aforesaid statement of the workman, so much so none of the witnesses Shri O.P. Sapra and Shri Dal Chand, Inspector denied the receipt of demand notice. A copy of the demand notice is found attached with the reference and I thus relying on the statement of the workmen hold that he served a notice of demand copy Exhibit WW-1/7 on the management with copies to Conciliation Officer, Gurgaon and the Labour Commissioner, Haryana.

As regards the legal aspect of question in respect of the necessity of service of notice of demand on the management before it was sent to the Conciliation Officer, I for the reasons stated by me in detail in my order, dated 10th October, 1975 in reference titled Shri S.S. Sethi *versus* Kirloskar Oil Engine pending in the Industrial Tribunal hold that it was no longer necessary for the workman to serve a notice of demand directly on the management and for the later to reject it before the matter was taken up to the Conciliation Officer. I thus decide this issue accordingly.

#### Issue No. 3

It is conceded on both side that no charge was ever framed against the workman and no enquiry was held against him, before the termination of his services,—*vide* letter, dated 29th December, 1971 Exhibit WW-1/4 informing him only that his services were no longer required. The management did not set up a plea even in the written statement that the services of the workman were terminated as a result of proof of commission of any misconduct by him and that they remained contended by merely saying that the services were legally terminated as no longer required in accordance with the terms of his appointment, dated 18th August, 1971 and the agreement referred to above. The management set up a case of termination of services of the workman as a result of commission by him of a misconduct, for the first time at the evidence stage when they examined Shri Dal Chand, Inspector in support of their allegation that 42 passengers were found without being in possession of regular tickets in Bus No. 282 conducted by the workman concerned from Ballabgarh, so much so Shri O.P. Sapra, Establishment Clerk, Haryana Roadways, Gurgaon examined as MW-1 admitted that the records did not disclose that the services of the workman were terminated by way of punishment.

An important legal question requiring consideration under the circumstances would be as to how far the management can rely upon the evidence of misconduct of the workman, in cases when his services were not terminated by way of punishment on the basis of such misconduct. The case put forth by the management in respect of justifiability of their order of termination of services of the workman on the ground of misconduct, firstly offends against the settled principle of law that any amount of evidence cannot be looked into on a plea not raised by the parties. Even otherwise it appears to be unreasonable to allow the party to set up a case not pleaded by him, for the first time at the evidence stage.

It was held in 1973 ILLJ 278 between the workman of M/s. Firestone Tyre & Rubber Company of India (Private) Limited and the management and others that the management could adduce evidence in the Labour Court or Industrial Tribunal only in support of the action taken by them, against the workman even if no enquiry was held against him, as would appear from the following observation of their Lordships of the Supreme Court with particular reference to the underlined portions :—

(4) Even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective, the Tribunal in order to satisfy itself about the legality and validity of the order, has to give an

opportunity to the employer and employee to adduce evidence before it. It is open to the employer to adduce evidence for the first time justifying his action and it is open to the employee to adduce evidence contra.

(5) The effect of an employer not holding an enquiry is that the Tribunal would not have to consider only whether there was a *prima facie* case. On the other hand, the issue about the merits of the impugned order of **dismissal or discharge** is at large before the Tribunal and the latter, on the evidence adduced before it has to decide for itself whether the **misconduct alleged is proved**. In such cases, the point about the exercise of managerial functions does not arise at all. A case of defective enquiry stands on the same footing as no enquiry.

(6) The Tribunal gets jurisdiction to consider the evidence placed before it for the first time in **justification of the action taken** only if no enquiry has been held or after the enquiry conducted by an employer is found to be defective.

(7) It has never been recognised that the Tribunal should straightaway, without anything more, direct reinstatement of a dismissed or discharged employee, once it is found that no domestic enquiry has been held or the said enquiry is found to be defective.

(8) An employer who wants to avail himself of the opportunity of adducing evidence for the first time before the Tribunal to **justify his action**, should ask for it at the appropriate stage. If such an opportunity is asked for, the Tribunal has no power to refuse. The giving of an opportunity to an employer to adduce evidence for the first time before the Tribunal is in the interest of both the management and the employee and to enable the Tribunal itself to be satisfied about the alleged **misconduct**.

The authorities reported as 1973 I LLJ 278, 1975 II LLJ 379 and 49 Journal Reports 104 so strongly relied on by Shri K.L. Piplani authorised representative for the management, only provide for a right of the management to adduce evidence before the Labour Court in support of the action taken by them by way of punishment of the workman on grounds of misconduct and not a right to adduce evidence in respect of misconduct when the services were not specifically terminated on that basis. All these three authorities in fact related to the dismissal of the workman by the management for misconduct and not for reasons of his services being no longer required and are as such not applicable to the facts of the case. I, thus hold that the management cannot rely on the evidence relating to the misconduct of the workman in order to justify his termination of services, in the instant case in view of their having terminated his services not by way of punishment.

Even assuming that the management had a right to adduce evidence relating to misconduct of the workman, the solitary oral statement of Shri Dal Chand Inspector that on a checking made by him near Telefunken factory of the Bus in question he found 42 passengers without tickets and 10 passengers out of them having actually paid the bus fare, in absence of any corroborative statement of Shri Raj Kumar Inspector admittedly accompanying him or any of the passengers in question is not sufficient to substantiate the charge of misconduct of dishonesty against the workman particularly when Shri Dal Chand admitted that there was no stoppage of Bus near Telefunken and the passengers found without ticket were proceeding to Telefunken factory. His statement that the bus could be stopped at a Telefunken by request only rebuts the story that the Conductor could book their journey till Telefunken factory on receipt of 20 paise as fare from each one of them. The story put forth by the workman that he insisted on charging each one of them 40 paise in view of Telefunken factory being not a regular stop and his passenger persisting to pay only 20 paise, took some time in the exchange of talks and the tickets could not be issued on this account alone and the workman had no dishonest intention of misappropriating the Government money. I, therefore, placing no reliance on the solitary statement of Shri Dal Chand hold the case unsubstantiated even on facts.

The management did not rely on the agreement to justify the termination of services of the workman concerned. Shri Om Parkash, Establishment Clerk Haryana Roadways, examined as WW-1 admitted that Shri Om Parkash, Conductor, No. 130, was employed on 9th September, 1969, and was placed under suspension with effect from 28th April, 1971, and was reinstated,—*vide* order dated 1st February, 1974. It is thus crystal clear from his statement that Shri Om Parkash was still under suspension at the time of the termination of the services of the workman concerned. Shri Sunder Dass was admittedly employed,—*vide* order Exhibit M-1 against the vacancy caused by the suspension of Shri Om Parkash and the termination of his services during the period of suspension of the latter against the terms of the order of his appointment Exhibit M-1 is obviously illegal and can not be said by any stretch of imagination to be in accordance with these terms as has been pleaded by the management. The except Ex. WW-2/1 prepared by Shri Ram Niwas, Clerk, Haryana Roadways, examined as WW-2/1 further established that one Shri Suresh Chander was appointed as Conductor on 25th August, 1971, one week after the appointment of Shri Sunder Dass workman concerned and being obviously junior to him in continuing in service till today. Such as authentic documentary evidence further led to a conclusion beyond doubt. The order of termination of services of Shri Sunder Dass amounted to an unfair labour practice and was made in order to victimise him for reason last known to the management or in order to help the recruitment of some of their favourite in his place.

Considered from any angle the order of termination of services of the workman concerned is unjustified and he is entitled to be reinstated with full back wages and continuity of service. I hold accordingly while returning the award in these terms.

MOHAN LAL JAIN,

Dated 17th January, 1977.

Presiding Officer,  
Labour Court, Haryana, Rohtak.

No. 132, dated 21st January, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana, Rohtak.

**No. 531-4Lab-77/4950.**—In pursuance of the provisions of section 17 of the Industrial Disputes, Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Haryana Woollen & General Mills Private Ltd., Panipat:—

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT, HARYANA, ROHTAK

Reference No. 12 of 1976

*Between*

SHRI MAHAVIR WORKMAN AND THE MANAGEMENT OF M/S HARYANA WOOLLEN & GENERAL MILLS PRIVATE LTD., PANIPAT

AWARD

By order No. ID/KNL/171-D-75/6796, dated 13th February, 1976, of the Governor of Haryana, the following dispute between the management of M/s Haryana Woollen & General Mills Private Ltd., Panipat, and its workman Shri Mahavir, was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Mahavir was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman alleged that the management had illegally terminated his services with effect from 23rd October, 1975, and declined to assign him any duty despite his having reported every day at the main gate for that purpose and that he was entitled to be reinstated with full back wages and continuity of service. He stated that the resignation dated 23rd September, 1975, submitted by him was involuntarily.

The management while denying the allegations of the workman that they had illegally terminated his services, pleaded,—*vide* written statement filed by them that the later voluntarily resigned his job,—*vide* written resignation dated 23rd September, 1975, duly accepted by them and that the order of acceptance of resignation made in writing was duly conveyed to him. —

The workman stated,—*vide* rejoinder filed by him, that the resignation submitted by him on 23rd October, 1975, was not accepted by the management before it was withdrawn by him,—*vide* a written letter and as such it was ineffective. He further stated that the management had no authority to accept his resignation before the expiry of period of notice of one month and that they were under a duty to inform him in writing the acceptance of his resignation which they failed to discharge.

The following issues were thus framed by me,—*vide* my order dated 3rd June, 1976:—

- (1) Whether the resignation dated 23rd September, 1975, was obtained by the management from the workman by force ?
- (2) In case of non-proof of issue No. 1, whether the management accepted the resignation and conveyed its acceptance verbally to the workman before he withdraw his resignation ?
- (3) If yes, to what effect ?

4. In case of non proof of issue No. 1 by the workman and issue No. 2 by the management, whether the termination of services of the workman was justified and in order, if not to what relief is he entitled ?

I have heard authorised representatives for the parties and decide the issues as under:—

#### Issue No. 1

The workman set up a case vide his statement dated 30th August, 1976, for the first time, that one Shri Chinku Ram Spindle, frame and carding Master one day asked him to stop at about 4-00 P. M. and threatened him that he would get him ousted from the Mills and blaken his face in case he (workman) did not sign the restgnation held by him. He added that he signed the resignation under the threat held out by Shri Chinku Ram in the manner as stated above and that the acceptance of the resignation was never conveyed to him. The story of threat alleged to have been caused, by Shri Chinku Ram in the manner stated above was not disclosed either in the notice of demand or in the rejoinder or even in the letter of withdrawal of resignation dated 29th September, 1975 Ex. W-1 and saw the light of the day for the first time on 30th August, 1976. No. explanation was made either by the workman, or Shri Karan Singh his authorised representative for his failure to disclosed it earlier and this circumstance in my opinion fully justifies the reiteration of the aforesaid story only on this ground, particularly when both the witnesses admitted that Shri Mahavir workman had told the entire incident to Shri Karan Singh the sameday. It stands admitted that no action was taken by the workman or Shri Karam Singh against the management before 29th September, 1975 when the letter of withdrawal of resignation Ex-W 1 was sent to the management, so or much so the workman did not even care to approach the partners of the management and tell them that the resignation had been obtained from him by Shri Chinku Ram under threat and the workman on the other hand setup an entirely different case in the letter dated 29th September, 1975 Ex. W-1 that the management had taken his resignation forcibly, without even mentioning the name of Shri Chinku Ram, all these circumstance lead to a conclusion beyond doubt of the falsify of the story put forth by the workman and I am thus not prepared to rely on the statement of Shri Karan Singh and Mahavir workman referred to above. I reject their evidence as unreliable.

The management examined Shri Ram Bihari Mishra their workman MW-1 who deposed that Shri Mahavir came to him on 23rd September, 1975 inside the factory and asked him to scribe his resignation and that he accordingly wrote the resignation Ex. M-2 in his own hand-writing on the instruction given to him by the workman concerned. He denied the suggestion that he ever asked Mahavir to continue to be member of his union and that he because hostile to him on his refusal to accede to this request. Shri Chinku Ram examined as MW-2 gave out that the workman came to him and told him that he wanted to resign his job and he took him to the office of Shri Sumer Chand Proprietor who asked him (workman) the reasons of his intention to resign the job and on being told that he (workman) wanted to start his own business he (Shri Sumer Chand) directed him to bring the resignation in writing. He added that the workman brought the resignation in writing and submitted it before Shri Sumer Chand in his presence and that the latter accepted it the same day and conveyed the acceptance of the resignation the workman there and then after making an order Ex. M-2/A in respect of such acceptance. Shri Sumer Chand examined as MW-3 corroborated as statement of Shri Chinku Ram. Nothing could be brought in cross examination of any of these witnesses leading me to doubt his testimony and a mere suggestion feebly made during arguments and at the evidence stage that the workman was a member of Union other than the Union of Shri Ram Bihari, does not justify a conclusion that the evidence of these witnesses was false. There could not have been any reason for the management or for Shri Chinku Ram of obtaining the resignation of the workman under threat or forcibly. I thus for the reason aforesaid fully rely on their evidence and hold that the resignation submitted by the workman on 23rd September, 1975 was voluntary and is not proved to have been obtained by the management under force. I decide this issue against the workman.

#### Issue Nos. 2 & 3

For the reasons stated by me while discussing issue No. 1, I place full reliance on the evidence of Sarvshri Chinku Ram and Shri Sumer Chand and hold that the resignation dated 23rd September, 1975 Ex. M-2 was accepted by the latter vide his endorsement Ex. M-2/A the same day and this acceptance was conveyed to the workman there and then and the latter of the withdrawal of the resignation Ex. W-1 thus remained ineffective. I decide this issue accordingly in favour of the management.

#### Issue No. 4

In view of my findings on issue Nos. 1 to 3 it is obvious that this is not a case of termination of service of the workman by the management and is on the other hand a case of a workman resigning his job voluntarily vide resignation Ex. M-2 dated 23rd September, 1975 duly accepted the same day vide order Ex. M-2/A which were conveyed to him there and then and the workman is not entitled to any relief. I decided this issue according. I answer the reference while returning the award in these terms.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak,

Endorsement No. 40, dated 10th January, 1977.

Forwarded Four copies to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL, JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 858-4Lab-77/5170.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Haryana, Rohtak in respect of the dispute between the workmen and the management of M/s Krishna Emfastners (P) Ltd; Faridabad.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 83 of 1970

*between*

SARVSHRI CHATTAR SINGH II, OM PARKASH, SHANKER LAL, HIRA LAL, YAD RAM,  
K. D. DHAMANKAR AND INDER PAL WORKMEN AND THE MANAGEMENT  
OF M/S. KRISHNA EMFASTNERS (P) LTD; FARIDABAD

#### AWARD

By order No. 50091-E-Lab-70/22387, dated 31st July, 1970 of the Governor of Haryana, the following dispute between the management of M/s. Krishna Emfastners (P) Ltd; Faridabad and its workmen Sarvshri Chattar Singh II, Om Parkash, Shanker Lal, Hira Lal, Yad Ram, K. D. Dhamankar and Inder Pal was referred to this Court, for adjudication, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

“Whether the termination of servshri Chattar Singh II, Om Parkash, Shankar Lal, Hira Lal, Yad Ram, K. D. Dhamankar and Inder Pal was justified and in order? If not to what relief are they entitled?

The workmen concerned alleged,—*vide* claim statement filed by them through their authorised representative Shri Darshan Singh, that their services had been terminated by the management illegally, in order to victimise them for their Trade Union activities and the enquiry held against them was faulty and against principles of natural justice and each one of them was entitled to reinstatement with full back wages and continuity of service.

The management pleaded,—*vide* written statement filed by them, that order of termination of services of the workmen concerned was correct and legal in all respects and was made as a result of the enquiry held against each one of the workmen into the charge sheet served on him, in respect of his misconduct, according to principles of natural justice. They stated that the reference made to this Court was bad in law for want of service of notices of demand on them by each workman individually.

The following issues were thus framed on pleas of the parties,—*vide* order dated 24th February, 1972 :—

1. Whether the reference is not valid for the reasons stated in the written statement?
2. Whether the termination of services of Sarvshri Chattar Singh II, Om Parkash, Shankar Lal, Hira Lal, Yad Ram, K. D. Dhamankar and Inder Pal Singh was justified and in order? If not to what relief is he entitled?

I have heard learned authorised representatives for the parties with reference to the evidence led by them. I decide the issues as under :—

*Issue No. 1*

The notice of demand dated 10th June, 1968 copy attached as annexure-I to the reference, was served on the management by Shri Darshan Singh, under section 2 (a) of the I. D. Act with an

allegation that the termination of services of each one of the workmen concerned was illegal and he was entitled to be reinstated with full back wages and continuity of service. There is on record a letter of authority executed in his favour by six workmen. It would thus appear that the demand raised on the management on behalf of each workmen individually related of an Industrial Dispute under section 2 (A) of the I. D. Act and shall be deemed to be an Industrial Disputes under section 10 of the Act and was at no stage considered as a collective dispute. The mere circumstance that one notice of demand was served on the management instead of separate notices would not legally make any difference and constitute a collective dispute so long as each workmen raised a demand relating to relief to him in his individual capacity under section 2 (A) of the I. D. Act. It can not therefore be said by any stretch of imagination, that the reference made to this Court is bad in law as being in respect of a collective dispute not espoused by a substantial number of workmen. I, therefore, decide this issue against the management.

*Issue No. 2.*

Sarvshri Om Parkash, Shankar Lal and Yad Ram workmen were charged for each one of them having disobeyed an order of the management directing him to report for duty at 3.00 P. M. on 22nd December, 1967 as a result of change of his shift made by them on 21st December, 1967 from 7.00 A. M. to 3.00 P. M. Shri Chattar Singh workmen was charged for having forced his way on another machine in disobedience of the order of the management directing him to report for duty on 22nd December, 1967 in the first shift on machine No. 2. Sarvshri Inder Pal, K. D. Dharmaker and Hira Lal workmen were charged for each one of them being found idle and not attending to his work at 4.30 P. M. on 24th December, 1967 and refusal to go out when asked to do so.

All these charges were found established by Shri B. P. Gupta Advocate Delhi appointed as an Enquiry Officer by the management, as a result of an enquiry held by him against each workmen separately. The management accepted his findings and dismissed each one of the workmen for misconduct of disobedience of their order.

I have carefully gone through the records of the enquiry held by Shri B. P. Gupta against each workmen separately and do not find the proceedings suffering from any infirmity. I on the other hand put that due opportunity was given by the Enquiry Officer to each workmen to take part in the enquiry and cross examine the witnesses examined by the management and adduce his own evidence in defence. In view of the evidence recorded by the Enquiry Officer of the witnesses of the management, it can not be said that his findings are perverse or not be borne out from the records. The enquiry thus can not said to be in any way against principles of natural justice.

Having given that finding this brings to the determination of legal aspect of the question as to whether the allegation made against each workmen constituted a misconduct of a nature rendering him liable to the punishment of dismissal from service. It is conceded on both sides that the management have no Certified Standing Orders of their own and Model Standing Orders of the Government of Haryana are not applicable to them.

Section 9(A) of the I. D. Act hereinafter referred to as the Act lays down as under :—

9. A. *Notice of change.*—No employer who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule shall effect such change—

- Without giving the workman likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected ; or
- Within Twenty one days of giving such notice :

It would thus appear from a plain reading of the aforesaid provisions of section 9(A) of the Act, that no employer could legally effect any change in the conditions of service of any workman in respect of any matter specified in the Fourth Schedule, without giving to him notice of such change and he could not effect such a change within 21 days of the date of such notice, even if it was duly served on the workman concerned. Change of hours of work and alteration of shift fall within items No. 4 and 6 of the Fourth Schedule.

No notice alleged to have been served by the management on the workman concerned was brought, either on the records of the enquiry or during evidence stage before and it can not thus be said as to whether it was actually given to the workman concerned in the prescribed manner according to the proforma E appended to the Industrial Dispute Punjab Rules as applicable to the State of Haryana. Rule 34 of these rules provides that the employer shall give notice of his intention to effect change in the condition of service of the workman, in English as well as in the regional language understood by the majority of the workman in the establishment, on a notice board at the main entrance to the establishment and to the manager's office in form E. There is not an iota of evidence on record of the management having done so the change in conditions of service

of the workman concerned was admittedly made within 3 or 4 days of the date of the order and it is thus crystal clear that the management is proved to have made a flagrant violation of the provisions of section 9(A) reproduced above, read with Schedule 4 and the order alleged to have been disobeyed by Sarvshri Om Parkash, Shankar Lal, Yad Ram and Chattar Singh were illegal and as such a disobedience thereof did not constitute any misconduct.

Taking up the case of Sarvshri Inder Pal, K. D. Dharmanker and Hira Lal, the only allegation against each one of them related to his sitting idle on 24th December, 1967 at 4.10 P. M. and his refusal to go out when asked to do so. Such an allegation, in absence of the Certified Standing Orders of the management or in view of inapplicability of Model Standing Orders in my opinion, does not constitute such a misconduct as to justify his dismissal and the lapse if any on the part of the workmen is of a small nature calling for a minor punishment.

I am thus convinced that none of the workmen Inder Pal, K. D. Dharmanker and Hira Lal concerned is found to have committed any misconduct justifying his dismissal from service and none of the other workman is found to have committed any misconduct. The result is that the termination of services of each one of the workman concerned is unjustified and he is entitled to reinstatement with continuity of service and full back wages. I hold accordingly and answer the reference while returning the award in these terms.

MOHAN LAL JAIN,

Dated the 14th January, 1977

Presiding Officer  
Labour Court, Haryana,  
Rohtak.

No. 133, dated the 21st January, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,

Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1595-4Lab-77/5174.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workman and the management of M/S Lands Barg India, Private Limited, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No 224 of 1976

*between*

SHRI DAVINDER SINGH WORKMAN AND THE MANAGEMENT OF M/S LANDS BARG INDIA, PRIVATE LIMITED, FARIDABAD

Present :— Shri Darshan Singh for the workman

Shri R. C. Sharma for the management

#### AWARD

By order No. ID/FD/103-B-76/39781, dated 20th October, 1976 the Governor of Haryana, referred the following dispute between the management of M/s Lands Barg India, Private Limited, Faridabad and its workman Shri Davinder Singh to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Davinder Singh was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. The workman filed his claim statement. The case was fixed for written statement to be filed by the management. At this stage a

compromise took place between the parties. The workman agreed that he was paid a sum of Rs. 580, he would give up this reference. The representative of the management agreed to this. The case was fixed for payment today. The representative of the management paid a sum of Rs 570 only to the workman concerned for giving up his claim under reference. He paid Rs 10 less only for the reason that actually the pay of the workman was Rs 285 P. M. whereas the workman had told him that his pay was Rs 290 P. M. The record of the management proved that the pay of the workman was Rs 285 only. The management also paid a sum of Rs 71.74 as unpaid wages. The management further paid a sum of Rs 208.90 against wages, Rs 206.40 against interim relief Rs 7.50, out of which the management deducted a sum of Rs 5 against E. S. I. contribution, Rs 10.50 against provident Fund, Rs. 1.75 against Family Pension Scheme, and after deducting this amount from Rs 208.90 as stated above, the management paid a sum of Rs 191.65 to the workman. The payment of above said sum was paid before the Tribunal. The workman accepted and received the above said sum as full and final settlement of all his claim and dues.

The workman gave up the demands under reference and is satisfied with the said payment. There is no dispute now between the parties and I give my award that there is no dispute between the parties.

NATHU RAM SHARMA,

Dated 10th February, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 187, dated the 10th February, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1977.

NATHU RAM SHARMA,

Dated 10th February, 1977.

Presiding Officer  
Industrial Tribunal, Haryana,  
Faridabad.

The 1st March, 1977

No. 1598-4Lab-77/5600.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the Management of M/s E.S.P.I. Agricultural Machineries (P) Ltd., 14/3, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD.

Reference No. 186 of 1973

*between*

SHRI A. S. RANA, WORKMAN AND THE MANAGEMENT OF M/S E.S.P.I. AGRICULTURAL MACHINERIES (P) LTD., 14/3 MATHURA ROAD, FARIDABAD

*Present :*

Shri R. N. Roy for the workman.

Shri Rajinder Dhawan for the management.

#### AWARD

By order No. ID/FD/73/44595, dated 22nd November, 1973 the Governor of Haryana, referred the following dispute between the management of M/s ESPI Agricultural Machineries (P) Ltd., 14/3 Mathura Road, Faridabad and its workman Shri A. S. Rana to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri A. S. Rana was justified and in order? If not, to what relief is he entitled?

On receipt of the reference, notices were issued to the parties. The parties put in their pleadings and the following issues were framed by my learned predecessor on 1st March, 1974.

- (1) Whether the demand the subject matter of the present reference was first raised direct on the management and rejected by it before taking up the matter for conciliation? If not, with what effect?
- (2) Whether Shri A. S. Rana concerned workman had withdrawn his resignation dated 22nd November, 1972? If so, with what effect?
- (3) Whether Shri A. S. Rana had received payment in full and final settlement of his entire claim against the management including the right of reinstatement?
- (4) Whether the termination of services of Shri A. S. Rana was justified and in order? If not, to what relief is he entitled?

The case was fixed for the evidence of the workman. The workman examined W. W. I Shri A. S. Rana, the workman concerned, as his own witness and closed the case on issues Nos. 1 and 2. Then the case was fixed for the evidence of the management. The management examined Shri Prithipal Singh, Technical Manager, S. P. Marketing Committee, Faridabad as M. W. I and closed their case. Afterwards the representative of the workman also closed his case. The case was then fixed for arguments.

At this stage a settlement took place between the parties. The settlement is X. According to there settlement the management agreed to pay a sum of Rs 500 to the workman concerned as an ex-gratia payment. Thereupon the workman concerned shall be deemed to have been retrenched from the service and the workman concerned shall accept the action of the management as legal and justified and the workman concerned shall have no right or claim of any type against the management and shall give up his right to reinstatement and re-employment.

I have considered the settlement. To me it looks fair and in the interest of the parties. The reference was only for deciding whether the termination of services of Shri A. S. Rana was justified and in order or not. The workman concerned admitted the action of the management of terminating his services as justified in consideration of Rs. 500 to be paid to the workman by the management. The evidence had disclosed that the workman concerned had submitted his resignation also. The alleged resignation was dated 21st November, 1972 whereas the workman had joined the service of the management on 30th August, 1971. The workman had one year and three months service only at his credit. In view of such a small period of service of the workman, I think the settlement agreeing to receive Rs. 500 for giving up his dispute is fair and reasonable. I, therefore, hold the settlement as fair and reasonable, and give my award on the basis thereof as follows:—

- (1) That the management shall pay Rs. 500 to Shri A. S. Rana, the workman concerned, as an ex-gratia payment.
- (2) That Shri A. S. Rana shall be deemed to have been retrenched from the service of the management Shri A. S. Rana shall not dispute the justifiability of the action of the management regarding termination of the services.
- (3) The workman concerned Shri A. S. Rana shall have no right of claim of any type against the management and shall give up his right to reinstatement as well as re-employment by the management subject to payment of Rs. 500 as said above to the workman by the management.

NATHU RAM SHARMA,

Dated the 9th February, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.

No. 184, dated 10th February, 1977

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,

Dated the 10th February, 1977.

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.